

IN THE SUPREME COURT OF CALIFORNIA

THE PEOPLE,)	
)	
Plaintiff and Respondent,)	
)	S019697
v.)	
)	
CARMEN LEE WARD,)	Los Angeles County
)	Super. Ct. No. A647633
Defendant and Appellant.)	
_____)	

MODIFICATION OF OPINION

THE COURT:

The court's opinion filed June 30, 2005, is ordered modified as follows:

In 36 Cal.4th at page 193, the last sentence of the first paragraph is deleted and replaced with the following sentence: "Following the penalty phase trial, the jury returned a verdict of death."

In 36 Cal.4th at page 194, the last sentence of the third paragraph is modified to read as follows: "With Springer in the passenger seat giving directions, Stumpf drove to Norton Avenue, where they saw defendant—with whom Springer had previous drug dealings—standing on the sidewalk with another person in the vicinity."

In 36 Cal.4th at page 212, at the end of the last paragraph, the following sentence is added: "To the extent *People v. Gordon*, *supra*, 10 Cal.3d at pages 468 to 469, indicated that a witness could be deemed defendant's accomplice in the charged offense even if the evidence of the witness's possible involvement tends to show the witness committed the crime without the defendant's participation, its reasoning on this point is disapproved."

In 36 Cal.4th at page 216, the first sentence of subpart H is modified to read as follows: “Defendant contends the multiple-murder special circumstance for a prior second degree murder (§ 190.2, subd. (a)(2)) is irrational and deprives him of due process, equal protection, and other guarantees under the federal Constitution, including its Eighth Amendment, because it depends on the fortuity of the order in which the murder convictions occur.”

In 36 Cal.4th at page 219, at the end of the first full paragraph, the following sentence is added: “In order that the form of judgment conform precisely to the jury’s verdict, however, we will order the judgment modified to reflect that the special circumstance found true was existence of a prior murder conviction under section 190.2, subdivision (a)(2).”

In 36 Cal.4th at page 223, the statement of disposition (“We affirm the judgment”) is deleted and replaced with the following: “The superior court’s judgment, report of sentence, and commitment to judgment of death are ordered modified to show that the special circumstance found true was previous conviction of murder (§ 190.2, subd. (a)(2)). The judgment is otherwise affirmed.”

This modification changes the appellate judgment.